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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 141107936-4988-01]

RIN 0648-BE55

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Snapper-Grouper Fishery off the Southern Atlantic States;
Amendment 29

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Amendment 29), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, Amendment 29 and this rule would revise annual catch limits (ACLs) and recreational annual catch targets (ACTs) for four unassessed snapper-grouper species and three snapper-grouper species complexes based on an update to the acceptable biological catch (ABC) control rule and revised ABCs for 14 snapper-grouper stocks. Additionally, this proposed rule would revise management measures for gray triggerfish in

Federal waters in the South Atlantic region, including modifying minimum size limits, establishing a split commercial season, and establishing a commercial trip limit. The purpose of this rule is to revise ACLs and recreational ACTs for select snapper-grouper species using the best scientific information available, and to address concerns about inconsistent minimum size limits among states, and early harvest closures in the commercial sector for gray triggerfish.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2014-0132" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0132, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the

comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 29, which includes an environmental assessment, an initial regulatory flexibility analysis (IRFA) and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727-824-5305, or e-mail: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Council's Scientific and Statistical Committee (SSC) has recommended revising the Council's ABC control rule to incorporate new methodology for species without assessments but for which there are reliable catch data. Amendment 29 updates the ABC control rule for unassessed stocks and revises the ABCs for 14 snapper-grouper species through application of the new control rule. Amendment 29 and this proposed rule would revise ACLs and recreational ACTs for three snapper-grouper species complexes and four snapper-grouper species based on the revised ABCs. The Council's SSC determined that these management measures are based on the best scientific information available.

A stock assessment for the South Atlantic stock of gray triggerfish was initiated in 2013 but completion of the assessment has been postponed until 2015. Meanwhile, fishermen have approached the Council with requests for management measures due to concerns about early closures in the commercial sector and the stock status of gray triggerfish. While the Council had intended to wait for the results of the stock assessment to make changes to management measures for this stock, the unforeseen delays in the assessment prompted the Council to be proactive and consider management measures in Amendment 29. These management measures include modifying minimum size limits for gray triggerfish, and establishing a

split commercial season, and a commercial trip limit for gray triggerfish.

Management Measures Contained in this Proposed Rule

This rule would revise ACLs for three species complexes and four snapper-grouper species based on the Council's updated ABC control rule and the adjusted ABCs for unassessed species contained in Amendment 29. In addition, this rule would revise management measures for gray triggerfish in Federal waters of the South Atlantic region.

Amendment 29 to Update the ABC Control Rule

Amendment 29 modifies the ABC control rule to use the Only Reliable Catch Stocks (ORCS) approach, recommended by the Council's SSC, to calculate ABC values for unassessed stocks for which there is only reliable catch information available. The approach involved selection of a "catch statistic" based on the maximum landings from 1999-2007, similar to the period of landings used in the Council's Comprehensive ACL Amendment, and to minimize the impact of a decrease in landings that may have been caused by the economic downturn and the effect of recent regulations. The catch statistic was then multiplied by a scalar (number) ranging from 1.25 to 2, based on SSC consensus and expert judgment, to denote the stock's risk of overexploitation (how likely the stock is to become overfished), and a scalar

ranging from 0.50 to 0.90 to denote the stock's management risk level. The SSC provided the first two criteria for each stock at issue and the Council developed the risk tolerance level. The amendment employed the ORCS approach to revise ABC values for the following unassessed snapper-grouper species: bar jack, margate, red hind, cubera snapper, yellowedge grouper, silk snapper, Atlantic spadefish, gray snapper, lane snapper, rock hind, tomtate, white grunt, scamp, and gray triggerfish.

Revise Annual Catch Limits for Select Species

This rule would revise the ACLs for three species complexes and four snapper-grouper species based on the revised ABCs using the ORCS approach. In Amendment 29, the Council defines $ACL=OY=ABC$ for the snappers complex, grunts complex, shallow-water complex, bar jack, Atlantic spadefish, and gray triggerfish. For scamp, the Council chose to revise the definition to $ACL=OY=0.90(ABC)$ to provide more of a buffer between the ABC and the ACL for scamp due to concerns about stock status of scamp.

The specified sector allocations and the recreational ACT definitions for the snapper-grouper species contained in Amendment 29 would not change from those established in the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012).

Modify Minimum Size Limit for Gray Triggerfish

This rule would establish a 12-inch (30.5-cm), fork length (FL) minimum size limit for gray triggerfish in Federal waters off North Carolina, South Carolina, and Georgia for both the commercial and recreational sectors. This rule would also increase the minimum size limit for gray triggerfish off the east coast of Florida from 12 inches (30.5 cm), total length to 14 inches (35.6 cm), FL, for both the commercial and recreational sectors, which is consistent with the commercial and recreational minimum size limit in place for this species off the west coast of Florida, however, this is inconsistent with the 12-inch (30.5-cm) FL minimum size limit for gray triggerfish in state waters off the east coast of Florida. The rationale for increasing the minimum size limit to 14 inches (35.6 cm), FL, off the east coast of Florida is to implement consistent regulations for fishermen in South Florida, specifically off the Florida Keys. The Florida Fish and Wildlife Commission is expected to discuss implementing compatible regulations for state waters off the east coast of Florida.

Establish a Split Commercial Season for Gray Triggerfish

The fishing year for gray triggerfish begins on January 1. Weather conditions can be poor off North Carolina and South Carolina during the early part of the year making fishing for gray triggerfish difficult. This rule would divide the annual

commercial fishing season for gray triggerfish into two six-month fishing seasons to provide opportunities to fish for gray triggerfish throughout the South Atlantic and throughout the calendar year. This rule proposes to allocate 50 percent of the commercial gray triggerfish ACL for the time period January 1 through June 30, and 50 percent for the time period July 1 through December 31. As a result, the commercial ACL would be divided into two seasonal quotas of equal amounts of 156,162 lb (70,834 kg), round weight. When the quota is reached for a given season, the commercial sector would close. In addition, any unused portion of the quota from the first season would be added to the quota in the second season. Any unused portion of the quota specified in the second season, including any addition of quota from the first season, would become void and would not be added to any subsequent quota.

Establish a Commercial Trip Limit for Gray Triggerfish

This rule would establish a commercial trip limit of 1,000 lb (454 kg), round weight, for gray triggerfish, in order to extend the commercial fishing season for this species.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 29, the FMP, the

Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA for this rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule, if implemented, would have on small entities. A description of the action, why it is being considered, and the objectives of and legal basis for this action are contained in the preamble. A copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the IRFA follows.

The proposed changes to management measures would directly apply to businesses in the finfish fishing industry (NAICS 114111) that harvest Atlantic spadefish, bar jack, gray triggerfish, scamp, and species of the grunts, shallow-water groupers, and snapper complexes of the South Atlantic snapper-grouper fishery. The proposed changes would also directly apply to anglers; however, anglers aboard for-hire fishing or private and leased vessels are not considered small entities as that term is defined in 5 U.S.C. 601(6).

Every commercial fishing vessel in the South Atlantic snapper-grouper fishery must have a valid commercial snapper-

grouper vessel permit, which is a limited access permit for either an unlimited quantity of pounds per trip or up to 225 lb (102.1 kg) round weight (whole weight) per trip (a 225-lb (102.1-kg) whole weight trip-limited permit). It is estimated that up to 613 commercial fishing businesses own these vessels.

According to Small Business Act Size Standards, a business in the finfish fishing industry is small if its annual receipts are less than \$20.5 million. It is expected that a substantial number of the commercial finfish fishing businesses are small businesses.

Two proposed changes are administrative actions and, as such, do not have a direct economic impact on any small entity. None of the proposed changes would impose additional reporting or record-keeping requirements on small businesses.

The proposed increases in the commercial ACLs for Atlantic spadefish and the shallow-water groupers and snappers complexes are expected to have no impact on annual landings of and dockside revenues from those species/complexes because baseline landings are less than the current ACLs. The proposed decreases in the commercial ACLs for scamp and the grunts complex are also expected to have no impact on annual landings or dockside revenues because baseline landings are less than the current and proposed ACLs.

The proposed increase in the commercial ACL for gray triggerfish is expected to increase annual landings of gray triggerfish by 22,978 lb (10,423 kg) to 34,726 lb (15,751 kg) whole weight and dockside revenues from those landings from \$44,118 to \$66,674. The proposed increase in the commercial ACL for bar jack would increase landings of bar jack from 0 lb (0 kg) to 1,429 lb (648 kg) whole weight and dockside revenue from those landings from \$0 to \$1,943. The combined impact of those increases would be an annual economic benefit from \$44,118 to \$68,617 (2013 dollars). The average annual benefit per commercial finfish business would range from \$72 to \$112.

The proposed minimum size limits for gray triggerfish would reduce commercial landings of the species. Two baselines are used to estimate the range of the adverse economic impact of this action. Under baseline 1, the total loss of annual dockside revenue from gray triggerfish landings would range from \$14,775 to \$29,654, while it would range from \$21,586 to \$39,609 under baseline 2. When that adverse impact is combined with the beneficial economic impact from the increase in the commercial ACL for gray triggerfish, there would be a net increase in annual dockside revenue from \$22,532 to \$37,020 (2013 dollars) from gray triggerfish landings.

The combined economic impact of the gray triggerfish size

limit and increase in the commercial ACL would not be the same across the states. There would be a net economic benefit in Georgia, North Carolina, and South Carolina and a net economic cost in Florida. Businesses in Florida would incur a combined annual loss ranging from \$135 to \$11,661 (2013 dollars) and the average annual loss of dockside revenue from the combined actions would range from \$0.3 to \$26 per Florida business. Businesses in Georgia, North Carolina, and South Carolina would incur a combined annual benefit ranging from \$33,435 to \$38,726 (2013 dollars), and the average annual net benefit would range from \$201 to \$233 per business.

The proposed division of the commercial gray triggerfish season into two 6-month seasons is expected to have no beneficial or adverse economic impact beyond the status quo. However, the divided commercial season would provide fishermen increased opportunity to fish for gray triggerfish in the summer months when weather conditions are more favorable.

The proposed 1,000-lb (454-kg) whole weight commercial trip limit is not expected to affect annual landings and dockside revenues from those landings, but instead would increase the numbers of trips and days with gray triggerfish landings during a fishing year. The trip limit would not affect commercial fishing vessels equally. It is estimated that 2.29 percent of

trips currently land more than 1,000 lb (454 kg) whole weight. Vessels that make those trips may experience economies of scale by landing more than 1,000 lb (454 kg) whole weight, and the trip limit would decrease their net revenue per pound by increasing their average cost per pound.

A considered but not adopted alternative of Action 3 would have set a larger commercial ACL for scamp and smaller commercial ACLs for the other species/complexes, particularly bar jack and gray triggerfish, which would yield smaller beneficial economic impacts than the preferred alternative. Two other considered but not adopted alternatives would further reduce the beneficial impacts.

A larger minimum size limit for gray triggerfish in Federal waters off Georgia, North Carolina, and South Carolina was considered but not adopted for Action 4. It would have a larger adverse economic impact on small businesses that harvest gray triggerfish in Federal waters off North Carolina, South Carolina and, Georgia. A smaller minimum size limit for gray triggerfish in Federal waters off Florida was considered but not adopted although it would have a smaller adverse economic impact on small businesses of Florida than the preferred alternative. A considered but not adopted alternative of Action 5 would have allocated a smaller percentage (40 percent) of the commercial

ACL to the first half of the season and larger percentage (60 percent) to the second half, which would result in smaller economic benefits in the first half of the year and larger economic benefits in the second half. However, there would be no expected difference in annual landings and dockside revenues across the various alternatives.

A lower trip limit was considered but not adopted for Action 6, which would yield smaller dockside revenues per trip. Another considered but not adopted alternative would have established a higher commercial trip limit; however, it would also have allowed for a higher rate of landings and likely shorter open seasons. There would be no expected difference in annual landings and dockside revenues across the various alternatives.

List of Subjects in 50 CFR Part 622

Annual Catch Limit, Annual Catch Target, Commercial Trip Limits, Fisheries, Fishing, Quotas, Size Limits, Snapper-Grouper, South Atlantic.

Dated: November 25, 2014

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.185, paragraph (c)(2) is revised to read as follows:

§ 622.185 Size limits.

* * * * *

(c) * * *

(2) Gray triggerfish--(i) In the South Atlantic EEZ off Florida--14 inches (35.6 cm), FL.

(ii) In the South Atlantic EEZ off North Carolina, South Carolina, and Georgia--12 inches (30.5 cm), FL.

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3. In § 622.190, paragraph (a)(8) is added and paragraph (c)(1) introductory text is revised to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(8) Gray triggerfish. (i) For the period January through June each year--156,162 lb (70,834 kg), round weight.

(ii) For the period July through December each year--156,162 lb (70,834 kg), round weight.

(iii) Any unused portion of the quota specified in paragraph (a)(8)(i) of this section will be added to the quota specified in paragraph (a)(8)(ii) of this section. Any unused

portion of the quota specified in paragraph (a)(8)(ii) of this section, including any addition of quota specified in paragraph (a)(8)(i) of this section that was unused, will become void and will not be added to any subsequent quota.

* * * * *

(c) * * *

(1) South Atlantic gag, greater amberjack, snowy grouper, golden tilefish, vermilion snapper, black sea bass, red porgy, wreckfish, and gray triggerfish.

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4. In § 622.191, paragraph (a)(10) is added to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(10) Gray triggerfish. Until the applicable quota specified in either § 622.190(a)(8)(i) or (ii) is reached, 1,000 lb (454 kg), round weight. See § 622.190(c)(1) for the limitations regarding gray triggerfish after either quota specified in § 622.190(a)(8)(i) or (ii) is reached or projected to be reached.

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5. In § 622.193, the first sentence of paragraphs (i)(1)(i), (i)(2), (j)(1)(i), (j)(2), (m)(1)(i), (m)(2),

(p) (1) (i), (p) (2), (q) (1) (i), (q) (2), (t) (1) (i), and (t) (2) are revised; paragraph (x) is revised; and the heading for paragraph (p) is revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(i) * * *

(1) * * *

(i) If commercial landings for scamp, as estimated by the SRD, reach or are projected to reach the commercial ACL of 219,375 lb (99,507 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) Recreational sector. If recreational landings for scamp, as estimated by the SRD, exceed the recreational ACL of 116,369 lb (52,784 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not

exceed the recreational ACL in the following fishing year. * * *

(j) * * *

(1) * * *

(i) If commercial landings for other SASWG, as estimated by the SRD, reach or are projected to reach the commercial ACL of 55,542 lb (25,193 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) Recreational sector. If recreational landings for other SASWG, as estimated by the SRD, exceed the recreational ACL of 48,648 lb (22,066 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

* * * * *

(m) * * *

(1) * * *

(i) If commercial landings for bar jack, as estimated by

the SRD, reach or are projected to reach the commercial ACL of 13,228 lb (6,000 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * *

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(2) Recreational sector. If recreational landings for bar jack, as estimated by the SRD, exceed the recreational ACL of 49,021 lb (22,236 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

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(p) Other snappers complex (including cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper)--

(1) * * *

(i) If commercial landings combined for this other snappers complex, as estimated by the SRD, reach or are projected to reach the complex commercial ACL of 344,884 lb (156,437 kg), round weight, the AA will file a notification with the Office of

the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. * * *

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(2) Recreational sector. If the combined recreational landings for this other snappers complex, as estimated by the SRD, exceed the recreational ACL of 1,172,832 lb (531,988 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL for this complex in the following fishing year. * * *

(q) * * *

(1) * * *

(i) If commercial landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the applicable commercial ACL (commercial quota) specified in § 622.190(a)(8)(i) or (ii), the AA will file a notification with the Office of the Federal Register to close the commercial sector for that portion of the fishing year applicable to the respective quota.

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(2) Recreational sector. If recreational landings for gray triggerfish, as estimated by the SRD, exceed the recreational ACL of 404,675 lb (183,557 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

* * * * *

(t) * * *

(1) * * *

(i) If commercial landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 150,552 lb (68,289 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

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(2) Recreational sector. If recreational landings for Atlantic spadefish, as estimated by the SRD, exceed the

recreational ACL of 661,926 lb (300,245 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. * * *

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(x) Grunts complex (including white grunt, sailor's choice, tomtate, and margate)--(1) Commercial sector. (i) If commercial landings for the grunts complex, as estimated by the SRD, reach or are projected to reach the commercial complex ACL of 217,903 lb (98,839 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of the grunts complex, is prohibited, and harvest or possession of these species in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard

to where such species were harvested, i.e., in state or Federal waters.

(ii) If the combined commercial landings for the grunts complex exceed the ACL, and at least one of the species in the complex is overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year.

(2) Recreational sector. If recreational landings for the grunts complex, as estimated by the SRD, exceed the recreational ACL of 618,122 lb (280,375 kg), round weight, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season for the grunts complex by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the

following fishing season is unnecessary.

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